

**HOGAN & HARTSON**  
**L.L.P.**

Writer's Direct Dial  
(202) 637-6920

COLUMBIA SQUARE  
555 THIRTEENTH STREET, NW  
WASHINGTON, DC 20004-1109  
TEL (202) 637-5600  
FAX (202) 637-5910

May 10, 1996

*BY HAND DELIVERY*

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

**RECEIVED**

**MAY 10 1996**

DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

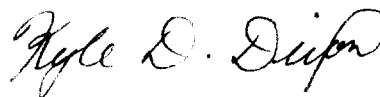
**Re: In the Matter of Assessment and Collection of Regulatory  
Fees for Fiscal Year 1996, Docket No. MD 96-84**

Dear Mr. Caton:

It has come to our attention that the Reply Comments that were filed on May 9, 1996, on behalf of GE American Communications, Inc. were inadvertently titled "Comments." We had previously filed Comments in this matter on April 29, 1996.

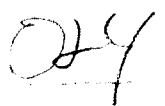
To avoid confusion, I have attached a corrected copy of the Reply Comments. The only change is the addition of the word "Reply" in the title. Please call if you have questions.

Respectfully submitted,



Kyle D. Dixon  
Counsel for GE American  
Communications, Inc.

Enclosures



RECEIVED

Before the  
Federal Communications Commission  
Washington, D.C. 20554

MAY 10 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Assessment and Collection ) Docket No. 96-84  
of Regulatory Fees for )  
Fiscal Year 1996 )

To: The Commission

**REPLY COMMENTS OF GE AMERICAN COMMUNICATIONS, INC.**

GE American Communications, Inc. ("GE Americom") hereby submits its reply to the comments of Comsat Corporation ("Comsat") in the above-captioned proceeding.

In its initial comments, GE Americom stated that it does not oppose the proposed satellite regulatory fees in the Commission's Notice of Proposed Rulemaking in this docket. <sup>1/</sup> We agreed that the proposed fees marked an improvement because they reflected recovery for regulatory activity related to direct broadcast satellites and Intelsat and Inmarsat signatories. We asked the Commission to continue efforts to bring fees in line with post-application regulation for the next fiscal year.

Not surprisingly, Comsat contends that the proposed signatory fee is illegal. First, Comsat argues that, given the absence of any relevant change in the

---

<sup>1/</sup> In Re Assessment and Collection of Regulatory Fees for Fiscal Year 1996, Notice of Proposed Rulemaking, MD Docket No. 96-84, FCC 96-153 (rel. April 9, 1996) ("Notice").

nature of the Commission's regulatory activities or in the law, the Commission lacks statutory authority to amend the existing fee schedule to establish "signatories" as a category of fee paying entities. 2/ Comsat bases this argument on language quoted from the second sentence of 47 U.S.C § 159(b)(3). 3/ Comsat adds that the signatory fee is but a thinly-veiled attempt to impose regulatory fees on satellites owned by international organizations, which the Commission concedes was prohibited by Congress. 4/ Second, Comsat argues that the signatory fee is improper because it receives no regulatory benefit from the Commission's oversight of its signatory activities, as those activities are specifically required by Congress. 5/

**I. FEDERAL LAW GIVES THE COMMISSION AUTHORITY TO CONSIDER ANY FACTORS RELEVANT TO ITS REGULATORY ACTIVITIES.**

The Commission should reject both of these arguments. Comsat misreads 47 U.S.C. § 159(b)(3), the first sentence of which states that "the Commission shall, by regulation, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires amendment to comply with the

---

2/ Comments of Comsat at 6-9.

3/ The second sentence of 47 U.S.C. § 159(b)(3) states: "In making such amendments [to the fee schedule], the Commission shall add, delete, or reclassify services in the Schedule to reflect additions, deletions, or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law." 47 U.S.C. § 159(b)(3) (1996).

4/ Notice at ¶ 43.

5/ Comments of Comsat at 10-14.

requirements of paragraph (1)(A).” 6/ Paragraph (1)(A) of § 159(b), in turn, requires that fees be:

**reasonably related to the benefits provided to the payor of the fee by the Commission’s activities, including such factors as service area coverage, shared use versus exclusive use, and other factors that the Commission determines are necessary in the public interest. 7/**

Thus, the plain language of the statute relied on by Comsat empowers the Commission to consider any factor relevant to the costs of its regulatory activities.

As GE Americom indicated in its initial comments, the imposition of the signatory fee will result in a much more equitable allocation of fees to satellite services. 8/ The fee follows from the fact that the Commission expends significant regulatory resources on signatory-related activity, 9/ and it is unreasonable (indeed, it is unlawful) for third party space station operators to pay that expense. Thus, the Commission found that the proposed signatory fee “is appropriate” 10/ and explained why:

**We propose to establish the separate Signatory fee because our geosynchronous space station fee now recovers a significant amount of costs directly attributable**

---

6/ 47 U.S.C. § 159(b)(3) (1996).

7/ 47 U.S.C. § 159(b)(1)(A) (1996) (emphasis added).

8/ Comments of GE Americom at 1.

9/ See Notice at ¶ 44 (discussing, inter alia, proceedings regarding U.S. Signatories’ authority to provide services via Intelsat and Inmarsat and proceedings related to whether U.S. Signatory has conformed to applicable structural and financial separation rules).

10/ Notice at ¶ 43.

to our resource burden related to conducting our oversight  
of the U.S. Signatory . . . 11/

The Commission clearly acted within its authority in proposing to redistribute fees previously borne by space station licensees to Comsat. This decision is well within the range of factors the Commission may consider in its Section 159(b) determinations.

Comsat's suggestion that the Commission has proposed the signatory fee to circumvent the prohibition on imposing fees on satellites owned by international organizations conflicts with the Commission's justification of the signatory fee. The fees are not being imposed on Intelsat or Inmarsat itself. Nor are they imposed on space stations operated by those bodies. They apply to a private U.S. corporation that receives benefits from its special signatory status, including benefits from FCC activity related to that activity.

## **II. COMSAT RECEIVES A "REGULATORY BENEFIT" WITHIN THE MEANING OF THE STATUTE.**

Comsat's claim that it receives no "regulatory benefit" from the Commission's activities is unpersuasive. Congress created Comsat because it determined that the best way to facilitate the development of "a commercial communications satellite system" 12/ would be to create Comsat, "a private

---

11/ See Notice at ¶ 44; see also Notice at ¶ 7 ("[P]ursuant to Section [159(b)(3)], we are to adjust the fees to take into account factors that are reasonably related to the . . . public interest.").

12/ 47 U.S.C. § 701(a) (1996).

corporation subject to appropriate government regulation.” 13/ Comsat also was created as a “for profit” corporation. 14/ The fact that Comsat must perform quasi-governmental functions in addition to its for profit activities does not change the fact that Comsat also causes, and benefits from, Commission regulation just as other private regulatees do.

More generally, Comsat seems to be arguing that regulation related to its signatory status “benefits” customers and competitors rather than that itself, and hence the fees should not apply. 15/ But this argument proves far too much. The same could be said of most of the Commission’s regulatory activity. Fees

---

13/ 47 U.S.C. § 701(c) (1996).

14/ 47 U.S.C. § 731 (1996).

15/ Comments of Comsat at n.14.

should cover the regulatory costs of the cost-causer -- Comsat. The signatory fees proposed here mark an overdue action to make satellite fees more equitable and cost-based. 16/

GE AMERICAN COMMUNICATIONS, INC.

Of Counsel

Philip V. Otero, Esq.  
Vice President and General Counsel  
GE American Communications, Inc.  
Four Research Way  
Princeton, NJ 08540

By: Kyle D. Dixon  
Peter A. Rohrbach  
Kyle D. Dixon  
Hogan & Hartson L.L.P.  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004  
(202) 637-8631

Its Attorneys

May 9, 1996

---

16/ Comsat also argues that it should not pay these regulatory fees because it already pays other fees. Comments of Comsat at 14-18. But of course the fact that Comsat pays other fees is irrelevant to the Commission's obligation to recover the costs related to signatory functions.